



infralink

Payment Guidance

Please note that the guidance set out in this document is provided for information only and does not constitute advice by Scottish Futures Trust to any public authority or other person. In addition, this document is not intended to provide an exhaustive statement of the matters that will require consideration by public authorities in connection with granting rights to use land or buildings by mobile operators. Scottish Futures Trust does not take any responsibility for any decisions made by a public authority or any other person based upon the contents of this document. It will be important that the organisation obtains specific professional advice in relation to any proposed transaction.

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1. Introduction

This document sets out the Infralink Payment Guidance and instructions on how it should be used.

2. The Payment Guidance

Infralink has developed the Payment Guidance against a backdrop of the Electronic Communications Code and associated caselaw, a national desire to promote the proliferation of the mobile communication network and the practical realities for public sector landowners across the length and breadth of Scotland.

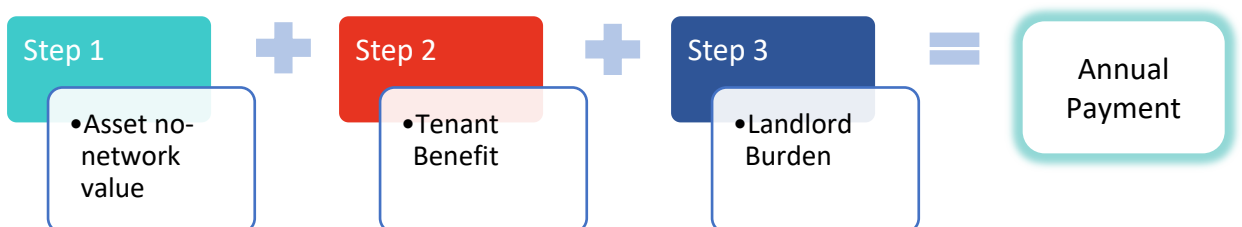
Used with the Infralink Standard Documents, the Payment Guidance will offer a credible option to current practice by establishing a balanced and transparent starting point for discussions between potential landlords and tenants. For both sides this will make negotiations and deployment more efficient and can result in improved connectivity in an area.¹

Please note that it is not advisable to use the Payment Guidance in all situations. Where sites have unusually high no-network values, these are outside the scope of the Payment Guidance and specialist advice should be sought. The Payment Guidance has been designed for standard assets and their uses.

In the development of the Payment Guidance Infralink has taken account of several areas, including subsidy control (formerly known as state aid) and the Electronic Communications Code, that local authority landlords will need to comply with when leasing assets. These are summarised in the [Infralink Local Authority Note](#) and the [Electronic Communications Code FAQs](#) document.

3. How to use the Payment Guidance

The amount of annual rent a landlord should receive from leasing their property to be used for hosting telecoms equipment is calculated using 3 steps that are added together:



¹ For more information about Infralink and the toolkit please visit <http://infralink.scottishfuturestrust.org.uk/>



Step 1 - Asset no-network value

In line with the Electronics Communications Code² the rights being granted in the lease are valued on the basis that they do not relate to the use of a communications network. This is known as the 'no-network principle'.

Table 1 below takes the most common land use types occurring across Scotland and values them based on both the current use and most valuable no-network use³. These capital values have then been converted to rents and applied to a representative network site area of 150m². The figure is then rounded up to the nearest £500. Rounding up the payment into £500 value bands plays several important functions: removes the distinction between the different classes, addresses the imposition factor on the landlord, includes generally recognised benefits given to the tenant, and creates a minimum threshold value.

Table 1

SITE	RURAL	AGRICULTURE - CLASS A	£21,000 / Ha	£32 / site	£500
		AGRICULTURE - CLASS B	£14,500 / Ha	£22 / site	£500
		AGRICULTURE - CLASS C	£3,800 / Ha	£6 / site	£500
		VERY LIMITED AGRICULTURAL VALUE	£1,000 / Ha	£2 / site	£500
		WOODLAND (UPPER)	£27,500 / Ha	£41 / site	£500
		WOODLAND (LOWER)	£12,500 / Ha	£19 / site	£500
		WOODLAND (AVERAGE)	£16,000 / Ha	£24 / site	£500
	URBAN	RESIDENTIAL (UPPER)	£4,000,000 / Ha	Out of Scope	Out of Scope
		RESIDENTIAL (LOWER)	£275,000 / Ha	£289 / site	£500
		RESIDENTIAL (AVERAGE)	£1,315,000 / Ha	£1,184 / site	£1,500
		INDUSTRIAL (UPPER)	£870,000 / Ha	£783 / site	£1,000
		INDUSTRIAL (LOWER)	£250,000 / Ha	£338 / site	£500
		COMMERCIAL (UPPER)	£6,000,000 / Ha	Out of Scope	Out of Scope
		COMMERCIAL (LOWER)	£100,000 / Ha	£105 / site	£500
	COMMERCIAL (AVERAGE)	£1,475,000 / Ha	£1,328 / site	£1,500	
	OPEN SPACE (UPPER)	£25,000 / Ha	£30 / site	£500	
	OPEN SPACE (LOWER)	£14,000 / Ha	£17 / site	£500	
	INDICATIVE AVERAGE URBAN	£750,000 / Ha	£788 / site	£1,000	

*Source: DISTRICT VALUER SERVICES (DVS); TRANSPORT SCOTLAND (TS); THE UK FOREST MARKET REPORT 2020

² Set out in Schedule 3A to the Communications Act 2003

³ Those sites that have uncommon uses or have unusually high no-network values, are outside the scope of the Payment Guidance and specialist advice should be sought.



Step 2 – Tenant Benefit

For Step 2 each site needs to be considered individually to determine whether there are any other aspects of the agreement that need to be recognised that have not already taken account of in the rounding up in Step 1. The aim is not to double count any benefits when calculating the payment. You can see from Table 2 that in several cases the tenant benefit is already “included” in Step 1. Where it is not and should be added, the suggested range is £250-£500 to cover all the exceptional tenant benefits.

Table 2

SITE	PRACTICAL BENEFITS	FIX EQUIPMENT TO TALL BUILDING	BUILDING	INCLUDED	RURAL / URBAN
		KEEP TALL STRUCTURE	LAND	INCLUDED	RURAL / URBAN
		CONNECT POWER SUPPLY	LAND / BUILDING	INCLUDED	RURAL / URBAN
		ACCESS LAND ADJOINING SITE	LAND	INCLUDED	RURAL / URBAN
		RUN EMERGENCY GENERATOR	LAND	INCLUDED	RURAL / URBAN
		CARRY OUT TEMPORARY WORKS	LAND	INCLUDED	RURAL / URBAN
		PRUNE/TRIM LANDLORD TREES	LAND	INCLUDED	RURAL only
		USE EXISTING ACCESS ROAD	LAND	ADD (by exception)	RURAL only
	SECURE HOST PROPERTY	LAND / BUILDING	ADD (by exception)	RURAL / URBAN	
	LEASE BENEFITS	LL MAINTAINS HOST TALL BUILDING	BUILDING	INCLUDED	RURAL / URBAN
		LL INSURES HOST TALL BUILDING	BUILDING	INCLUDED	RURAL / URBAN
		TENANT BREAKS	LAND / BUILDING	NIL	RURAL / URBAN
		NO RENT REVIEW	LAND / BUILDING	NIL	RURAL / URBAN

Land - Categories of tenant benefits recognised in case law such as rights to enter other land (outside the leased site) to carry out temporary works, install an emergency generator and trim/prune trees, fall under the general heading of ‘imposition’ on the landlord and so are taken account of in the rounding up in Step 1 existing use values into £500 bands. Further Step 2 additions should only apply by exception when agreed by both parties.

Buildings - Categories of tenant benefits recognised in case law include a (high) building serviced, maintained and insured by the landlord on which equipment can be mounted and operated. For simplicity Infralink proposes a Step 1 payment of £1,500 to apply for all rooftop sites to reflect the most generally recognised and accepted tenant benefits. Further Step 2 additions should only apply by exception when agreed by both parties.

Rent Reviews and Lease Breaks - These can often be viewed as benefits to either a landlord or tenant, however when viewed for a telecoms site, neither adds any value. As hosting mobile infrastructure is commonly viewed as an imposition, a lease break exercisable by the tenant would provide early relief from this imposition. Rent review negotiations are time-consuming and burdensome on both parties for site payments lowered by the Electronic Communications Code. There is currently no evidence that the absence of a rent review benefits the tenant only. Infralink attaches no tenant benefit to either of these factors. The parties are of course at liberty to include a rent review if considered of value to them.



Step 3 – Landlord Burden

Landlord Burdens are practical and/or legal restrictions, or adverse impacts placed on the landlord by the lease or use of the site location for network site purposes that are over and above the standard terms. Table 3 sets out recognised examples of landlord burdens and whether they are already “included” in Step 1 or should be added as part of Step 3. Where it is considered a Step 3 supplement, the suggested range is £250-£500 to cover all the exceptional landlord burdens, unless the burden relates to additional equipment or site sharing for buildings.

Table 3

SITE	PRACTICAL BURDEN	IMPACT ON VISUAL AMENITY	LAND	ADD (by exception)	RURAL only
		GENERATOR NOISE	LAND	INCLUDED	RURAL / URBAN
		PERSONNEL/VEHICLE ACCESS	LAND	ADD (by exception)	RURAL only
		PERSONNEL/VEHICLE ACCESS	BUILDING	ADD (by volume)	RURAL / URBAN
	LEASE BURDEN	MULTIPLE SITE SHARERS	LAND	INCLUDED	RURAL / URBAN
		MULTIPLE SITE SHARERS	BUILDING	ADD (by volume)	RURAL / URBAN
		ADD EQPT WITHOUT CONSENT	LAND	INCLUDED	RURAL / URBAN
		ADD EQPT WITHOUT CONSENT	BUILDING	ADD (by volume)	RURAL / URBAN

Buildings – In both urban and rural buildings, case law shows that the landlord is entitled to know what work is done to the building and by whom. The level of landlord burden should be considered relative to the amount of activity happening on site - the number of changes to installed equipment and the volume of parties using and maintaining the equipment. Agreed activity levels will reflect both permitted site-sharing and approved major and minor equipment upgrades. Table 4 shows the values relating to site sharing and upgrades combinations.



Table 4

SCENARIO 0	0 MAJOR & 0 MINOR UPGRADES	£500 pa	RURAL / URBAN
SCENARIO 1	1 MAJOR & 0 MINOR UPGRADES	£1,700 pa	RURAL / URBAN
SCENARIO 2	1 MAJOR & 2 MINOR UPGRADES	£2,100 pa	RURAL / URBAN
SCENARIO 3	2 MAJOR & 2 MINOR UPGRADES	£2,700 pa	RURAL / URBAN
SCENARIO 4	2 MAJOR & 6 MINOR UPGRADES	£3,500 pa	RURAL / URBAN
NOTES			
ASSUMES A 10 YEAR LEASE TERM			
INCLUDES ONGOING PLANNED & REACTIVE MAINTENANCE SITE VISITS			
EXCLUDES PROFESSIONAL AGENT FEES & LEGAL FEES (WHERE APPLICABLE)			
PAYMENTS WOULD APPLY FOR NEW LEASE OF ROOFTOP SITE - OR RENEWING/EXTENDING LEASE OF EXISTING ROOFTOP SITE			


Land – Case law has added a landlord burden payment to the valuation of sites in rural countryside settings. However, land used for industrial or commercial purposes (or any purpose) in an urban setting are inherently less sensitive in terms of visual impact (within the built environment) and personnel/vehicle access across areas already in active use. As result in a rural area loss of visual amenity or disturbance caused by access (personnel/vehicles) across the landlord’s property to the site could see a supplement in the range of £250-£500 being added to the Step 1 figure depending on severity. However in an urban location, loss of visual amenity or access across the landlord’s property does not warrant a Step 3 supplement.



4. Summary Outcomes Table

Table 5 below shows how the expected range of payments for different locations and property types compare. The table should be used to help public asset owners and mobile operators to predict and understand the level of payment depending on the circumstances.

Table 5

PAYMENT GUIDANCE - COMPARISON SUMMARY 							
LOCATION			PROCESS STEPS			OUTCOME	
SETTING	PROPERTY	SITE	ONE (NO NETWORK VALUE)	TWO (BENEFIT)	THREE (BURDEN)	ANNUAL PAYMENT	COMMENT
URBAN	BUILDING	ROOFTOP	£1,500	Included	£500 - £3,500	£2,000 - £5,000	Step 1 fixed. Step 3 value range based on agreed sharing & major/minor upgrades
	LAND	GREENFIELD	£1,000 - £1,500	Included	None	£1,000 - £1,500	Step 1 based on existing land use value with Step 2 included and no Step 3 addition
RURAL	BUILDING	ROOFTOP	£1,500	Included	£500 - £3,500	£2,000 - £5,000	Step 1 fixed. Step 3 value range based on agreed sharing & major/minor upgrades
	LAND	GREENFIELD	£500	Included	£250	£500 - £750	Step 1 based on existing land use value with Step 2 included and Step 3 addition by exception